

# Exhibit 2

\*\*NO COPY OF THIS TRANSCRIPT MAY BE MADE PRIOR TO JUNE 13, 2016

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

\* \* \* \* \*

UNITED STATES OF AMERICA

v.

GERALD DELEMUS

\* \* \* \* \*

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\* Cr.1:16-mj-24-AJ-1

\* March 7, 2016

\* 2:30 p.m.

\*

\*

TRANSCRIPT OF DETENTION HEARING  
BEFORE THE HONORABLE ANDREA K. JOHNSTONE

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Court Reporter: Liza W. Dubois, LCR, RMR, CRR  
Official Court Reporter  
United States District Court  
55 Pleasant Street  
Concord, NH 03301  
(603)225-1442

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## I N D E X

	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
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**WARREN GROEN**

By Attorney Saxe	23			
By Attorney Zuckerman		27		

**JOHN BURT**

By Attorney Saxe	28			
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**DAVID BATES**

By Attorney Saxe	33			
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**STEPHANIE MONZA**

By Attorney Saxe	35			
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## EXHIBITS

	<u>ID</u>	<u>In Evid.</u>
Government's Exh. No. 1	6	

1                                   BEFORE THE COURT

2                   THE CLERK:   This court is now in session and  
3   has before it a detention hearing in the matter of  
4   United States of America vs. DeLemus, case number  
5   16-mj-24-01-AJ.

6                   THE COURT:   Before we get started with today's  
7   hearing, Mr. DeLemus, there are just a few things that  
8   I'd like to review with you again.   You don't need to  
9   stand.   You can remain seated.

10                  You may recall that the last time that we met  
11   I instructed you on some of your rights regarding your  
12   ability to remain silent.   So I just want to remind you  
13   of those again.

14                  You don't need to say anything in today's  
15   proceeding.   If you do say anything, you should be  
16   prepared that those statements may be used against you.  
17   If you start to make a statement, you have the right to  
18   stop at any time.   You are not required to make any  
19   statements today.   Do you understand those rights?

20                  THE DEFENDANT:   I do, ma'am.   Thank you.

21                  THE COURT:   Okay.   Very good.

22                  So there was also another preliminary issue  
23   as to whether or not Mr. DeLemus wished to have his  
24   detention hearing here or in the charging district.   I  
25   am assuming that that matter's been resolved, but I just

1 want to make sure that it's clear for the record.

2 MR. SAXE: Yes. He's requesting it in this  
3 district, your Honor.

4 THE COURT: Okay. Very good. So with that,  
5 let's proceed, and I'll turn it over to the Government.

6 MR. ZUCKERMAN: Thank you, your Honor.

7 Your Honor, the United States is moving for  
8 detention in this matter. Last week, as the Court's  
9 aware, I filed a memorandum supporting that position  
10 which, as I pointed out in my Motion for Detention, was  
11 prepared by the Assistant United States Attorney's  
12 office in Nevada, where this indictment was brought.

13 By and large, your Honor, I am satisfied to  
14 rest on the arguments made in that memorandum, but there  
15 are a few points that I'd just like to highlight for the  
16 Court, particularly in response to the memorandum that  
17 the defendant filed on Friday afternoon.

18 The defendant, in his -- in his motion for  
19 release, your Honor, focuses factually at least on the  
20 argument that he was not present on April 12th of 2014  
21 when the assault on federal agents and officers was  
22 waged by the Bundys in the wash by the Bundy ranch.  
23 That is certainly correct; he did not arrive until  
24 sometime that evening, after the -- after the federal  
25 officers had retreated in the face of considerable

1 firepower that was directed at them from both positions  
2 of an overlook position, higher ground, as well as  
3 direct confrontation on the ground.

4           However, in the days preceding that assault on  
5 the 12th, the defendant was in touch with Cliven Bundy  
6 on the 8th of April and based on his communications with  
7 Cliven Bundy, resolved to go to the Bundy ranch to  
8 support the Bundys' resistance to the court orders and  
9 to the enforcement of those court orders which the  
10 Bureau of Land Management was in the process of trying  
11 to carry out.

12           He drove some 40 hours with heavy armaments  
13 with him, including, as is depicted in the memorandum  
14 that I filed, a .50 caliber sniper's rifle. He stopped  
15 along the way to line those guns, to zero in the sights  
16 to ensure their accuracy, and then continued on to the  
17 Bundy ranch, arriving there, as I say, in the evening  
18 after that original assault on the federal officers had  
19 taken place.

20           I think the memorandum does -- does justice to  
21 explaining the circumstances under which that assault  
22 took place and what the nature of the conspiracy was  
23 that the defendant joined and that he is charged with,  
24 but to further illustrate exactly what the federal  
25 officers were facing that day, albeit before the

1 defendant arrived, your Honor, but which is -- but what  
2 is indicative of the conspiracy that he joined, I have a  
3 presentation. I've provided a copy of this to defense  
4 counsel before the hearing started. I'd like to mark  
5 this as an exhibit, if I may, for the Court.

6 THE CLERK: Government's Exhibit 1 marked.

7 (Government's Exhibit No. 1 was marked for  
8 identification.)

9 MR. ZUCKERMAN: Your Honor, that is a printout  
10 of a PowerPoint presentation of a series of photographs  
11 that were taken on the 14th of April -- I'm sorry, on  
12 the 12th of April of 2014 that show the number of guns  
13 that were present at the -- at the time of the assault,  
14 the wash positions that people took up -- I didn't mean  
15 to erase that, sorry -- the wash positions that people  
16 took up when the assault on the federal officers took  
17 place, the snipers' positions that various members of  
18 the group supporting Cliven Bundy and his family took up  
19 on the overpass overlooking that wash with high-powered  
20 weapons, and the confrontation itself in the wash area  
21 with agents of the Bureau of Land Management, where the  
22 confrontation directly took place with them under the  
23 highway overpass and where the agents and officers of  
24 the Bureau of Land Management eventually decided that  
25 the better course of action was to back off and retreat

1 to avoid violence and an armed conflict with the  
2 supporters of the Bundys.

3 It was after this event or shortly after that  
4 event that the defendant arrived at the Bundy ranch and  
5 immediately upon his arrival took up a position of  
6 leadership in at least one of the camps where he was put  
7 in charge of Camp Liberty, which is where a number of  
8 other armed members or supporters of the Bundys were  
9 camped out. And he remained at the Bundy ranch for  
10 three weeks, supporting their resistance to the lawful  
11 orders of the federal court and to the efforts of  
12 federal agents and officers to enforce those lawful  
13 orders.

14 He also explained, publicly, several times,  
15 what his intentions were in being there and some of his  
16 statements are outlined in the memorandum that was  
17 filed. Particularly at page 14 of the memorandum that I  
18 filed last week, the defendant was quoted from an  
19 interview that he gave while he was there, explaining  
20 exactly why he was there and what his intentions were  
21 and what he was prepared to do. And he said, "What we  
22 are out here to do is to keep the federal government,  
23 that is acting in a lawless nature, from shooting the  
24 Bundys or anyone else. If, in fact, the federal  
25 Government and their agencies come after the Bundys and



1 shoot at them, we will defend the Bundys. Absolutely,  
2 and we have all the capability in the world to do that.  
3 Do we want to do that? Absolutely not. What we will do  
4 is we will all die right here in place to defend the  
5 Bundys and the freedom of this country. And if nobody  
6 else in this country will stand up, by God, you can look  
7 around here and see what true heroism is."

8           So the defendant was unambiguous in his  
9 statements publicly that the reason he was there was to  
10 take up arms against the United States Government, which  
11 he considered, in his mind, to be acting lawlessly, and  
12 to use such force, including deadly force, as he saw fit  
13 to respond to what he perceived as lawless action. He  
14 supported that effort by bringing a number of weapons  
15 with him to the Bundy ranch, including, as I mentioned,  
16 that .50 caliber sniper's rifle, which is depicted in  
17 two different photographs in the memorandum that I  
18 filed.

19           And, your Honor, with respect to  
20 dangerousness, I think our argument could almost begin  
21 and end just with that weapon. That weapon really has  
22 two purposes; to kill with extreme prejudice and to  
23 intimidate, to let somebody know that I can take you out  
24 from a great distance. That's a weapon that can -- that  
25 can accurately take out a target, kill its target, from

1 many, many hundreds of yards away. Just introducing a  
2 weapon of that force, of that magnitude, into the  
3 standoff at the Bundy ranch speaks volumes as to the  
4 defendant's intentions. That is not a defensive weapon.  
5 That is assaultive weapon. That is a weapon of  
6 offensive tactics, not defensive tactics, and he's  
7 proudly depicted having that weapon with him on site.  
8 And, as the other quotes in the -- that are cited in the  
9 memorandum I filed illustrate, he was ready, willing,  
10 and able if, in his mind, the situation called for it,  
11 to use that level of deadly force against federal  
12 agents.

13 Part of his duties, as is outlined in the  
14 memorandum, was to provide security and an armed escort  
15 to other members of the standoff who were going out,  
16 rounding up the Bundys' cattle, strays or calves, that  
17 the BLM had to abandon when they retreated from the  
18 property. And there is a Facebook posting which is  
19 contained in -- on page 17 of the memorandum that I  
20 filed last week that speaks directly to that activity.

21 And he says that as he followed the pickup  
22 truck that he was providing an armed escort to, with  
23 seven folks in the vehicle that he was in to provide  
24 protection, it dawned on him that the folks he was  
25 trying to protect, in his mind, were just trying to go

1 to work and that he had to protect them against our own  
2 government.

3           So he is in that own Facebook posting, in his  
4 own words, saying exactly what he was doing. He was  
5 providing an armed escort to people who were in the  
6 process of violating the law, of disregarding lawful  
7 court orders, several of them, that had been issued over  
8 the years, and was ready to defend them by using force  
9 against federal agents who may try to interfere with  
10 their unlawful activities in trying to secure cattle  
11 that the federal government was at that point, after  
12 much litigation, trying to -- trying to obtain and  
13 forfeit for purposes of settling the ongoing dispute  
14 about grazing fees with the BLM.

15           So I raise all these points or highlight these  
16 points, your Honor, to emphasize the issue of  
17 dangerousness that the defendant poses. It is true that  
18 this activity happened in 2014 and that but for the  
19 recent -- the defendant's recent trip out to Oregon for  
20 the standoff that occurred there, he has not been  
21 engaged in like activity. And when he went out to  
22 Oregon, I'm certainly not suggesting that he went out  
23 there in any way, shape, or form as he did when he went  
24 to Nevada. He did not go out there armed. He went out  
25 there ostensibly to talk to the folks who were involved

1 in that standoff, and he told the FBI that he was going  
2 out there to talk to them.

3           Nevertheless, I don't think that it's  
4 appropriate to discount the defendant's conduct in 2014  
5 or his statements about his willingness to use force  
6 against the federal government lawfully exercising its  
7 powers to enforce lawful court orders and suggest that  
8 just because he left the Bundy ranch after some three  
9 weeks, somehow his dangerousness has dissipated. What  
10 the defendant demonstrated is that, in his mind, he can  
11 make the decision about when the federal government is  
12 acting lawfully or lawlessly. And if in his mind it is  
13 acting lawlessly, then, in his mind, he is perfectly  
14 within his rights to take up arms against federal agents  
15 and federal officers. That's dangerousness as broadly  
16 and as precisely as I think it could possibly be  
17 defined.

18           It also, your Honor, speaks to the issue of  
19 whether the defendant would be willing to submit to the  
20 court order to appear in Nevada to answer these charges  
21 because, as he demonstrated when he went out to the  
22 Bundy ranch, he is dismissive of lawful court orders.  
23 And if in his mind he deems them to be unlawful,  
24 unenforceable, contrary to the constitution as he  
25 interprets it, then he does not have to abide by it.

1 And he was supporting the Bundys who took exactly that  
2 approach to the lawful court orders that were handed  
3 out, handed down to them, many of them, that ultimately  
4 gave rise to the -- to the assault on the federal  
5 officers and the standoff that ensued.

6 So given his conduct, given his public  
7 pronouncement about his conduct, I think it is highly  
8 unlikely that there are any conditions or combination of  
9 conditions that could assure his appearance in Nevada to  
10 answer these charges or that would adequately assure the  
11 safety of the community from the defendant's conduct.  
12 And for those reasons, your Honor, we move for  
13 detention.

14 I do note that the defendant in his memorandum  
15 addressed certain legal arguments about whether the --  
16 in particular, the Section 924(c) charges would stand as  
17 a matter of law. I would respectfully submit to this  
18 Court that those issues are best addressed in Nevada,  
19 where this case has been brought, and where they can be  
20 fully litigated by the U.S. Attorney's Office there, and  
21 the defendant before the Court that will be hearing this  
22 case in Nevada.

23 But I would also point out, your Honor, that  
24 the defendant is charged in this indictment with  
25 Section 111 violations, assault on a federal officer,

1 which are themselves crimes of violence and even short  
2 of the 924(c) charges, would trigger the presumption for  
3 detention that is present in this case.

4 But that is the summary of argument, your  
5 Honor. Beyond that, I would rest on the memorandum that  
6 we filed.

7 THE COURT: Okay. Very good. Thank you.

8 Attorney Saxe --

9 MR. SAXE: Yes, your Honor.

10 THE COURT: -- do you want a few minutes?

11 MR. SAXE: No, I'm okay.

12 THE COURT: Are you all set?

13 MR. SAXE: Your Honor, I think that to  
14 understand this case, perhaps the best way is to do what  
15 actually the Government did in its pleading, initial  
16 indictment, and the sentencing memo. And what it did is  
17 the broke the alleged conduct down into what happened  
18 well in advance of April 12th, 2014. And there was I  
19 don't know how many dozens of paragraphs that had to do  
20 with that particular conduct which involved the Bundys  
21 and some other individuals out there and did not in any  
22 way, shape, or form involve my client at all. He had  
23 absolutely nothing to do with that. And that is a large  
24 part of the factual allegations in the indictment and a  
25 large part of the substance of the Government's motion

1 for detention.

2 The second, which seems to me to be the most  
3 important issue from the Government's perspective, is  
4 what happened on actually April 12th, 2014. And then I  
5 would call your attention to what happened or what, for  
6 lack -- what didn't happen after April 14th, 2014 (sic).

7 So my client had -- whatever the dispute was  
8 about cattle and grazing and not paying fees, my client  
9 had nothing to do with that. They're not even alleging  
10 he had anything to do with that.

11 There was also a situation whereby the  
12 Government had made arrangements with private  
13 individuals to broker or auction the cattle once they  
14 were removed from the property and there was some  
15 allegations that Mr. Bundy and some of the people  
16 associated with him intimidated, if you will, these  
17 private people that were going to be engaged to sell  
18 the cattle. And that all happened well in advance of  
19 April 12th, 2014, and my client had nothing to do with  
20 that.

21 Now, what happened on April 12th, 2014, which  
22 the Government missed -- my client wasn't even there.  
23 My client did not know that there even had been a  
24 confrontation. There's a presumption here that my  
25 client was planning to be part of this confrontation

1 which took place on April 12th, 2014. He never even  
2 knew there was that confrontation on April 12th, 2014.  
3 He didn't know that until after he got there.

4 So I see some disturbing pictures there, but  
5 he didn't have anything to do with that. He didn't know  
6 that was going to happen and he didn't know that it did  
7 happen until after he got there.

8 Now, when he got there, I would argue that he  
9 served as a voice of reason, and the evidence is that  
10 nothing else happened. Okay? After he arrived -- I  
11 don't know that he's responsible for nothing else  
12 happening, but the fact is that nothing else happened  
13 after he arrived. He stayed there for a couple of weeks  
14 and then he returned home.

15 Now, when was that? That was two years ago  
16 almost, your Honor, or one year and 11 months, almost  
17 one year and 11 months ago. So what has happened in  
18 that one year and 11 months with respect to my client  
19 and with respect to any evidence of dangerousness on his  
20 behalf? Well, I would submit to you that nothing  
21 happened. Okay?

22 He's 61 years old. He was in the Marines for  
23 six years. He honorably served his country. He is very  
24 interested in governance and he is very interested --  
25 he's a Republican, and I would describe him as a



1 right-wing Republican in the sense that he's very  
2 religious and he shares a lot of the views of people  
3 that are right-wing Republicans. There's nothing wrong  
4 with that any more than there's people that are  
5 left-wing liberals. But what he has done is he's  
6 surrounded himself with people that do it the right way,  
7 that go through the political process. All right? His  
8 wife is a representative. There are several other  
9 people in the audience here today that are  
10 representatives. They're elected officials. He  
11 associates himself with people like that so he can do  
12 things the right way and not the wrong way. All right?

13 So he -- he did not engage in a conspiracy  
14 with these people to assault federal officers because he  
15 did not know that federal officers, if they were, were  
16 going to be assaulted.

17 What else happened in the, say -- we'll say  
18 two years since 2014? I would say that -- that actions  
19 speak louder than words. And the Government sits here  
20 today and asserts that he should be detained because  
21 he's dangerous, but the Government knows that he's not  
22 dangerous because he's been out for two years. He has  
23 been communicating with the FBI. He has been doing  
24 nothing whatsoever wrong. He's been doing the whole  
25 thing he's done his entire 61 years, which is live a

1 life that is law-abiding.

2 Another thing that I think is very significant  
3 that happened in the last two years is that there was --  
4 as you're aware, there was an incident in Oregon at the  
5 Mueller Federal Wildlife Reserve in Harney County,  
6 Oregon, wherein some of the associates of Mr. Bundy took  
7 over a wildlife preserve. I'm sure you're aware of  
8 that. Everybody's aware of that. So he thought that  
9 that was wrong. He contacted Philip Christiana of the  
10 FBI and said, I'm going to go out there because I want  
11 to talk these people down because I think they're doing  
12 the wrong thing. And then he flew out there on his own  
13 dime. And then he also talked to some people in the FBI  
14 while he was there.

15 He then went to the wildlife preserve and he  
16 told the people, you need to leave; this is wrong; you  
17 need to deal with this in the court system; and he tried  
18 to act as a go-between. It didn't work, but he tried to  
19 act as a go-between. He went -- while he was out there,  
20 he went there twice and he had the same conversation  
21 with these people. And the reason he did it is he knows  
22 these people and he was hoping that they would listen to  
23 him and leave. And he pleaded with them again, look,  
24 you need to leave, this is wrong, you need to deal with  
25 this through the legal process, just like he and his

1 family and the people that he associates with in  
2 New Hampshire are trying to, you know, have their  
3 political views put into life through electing people  
4 through the -- the democratic process of electing  
5 people.

6           So then he returned New Hampshire. Now, one  
7 thing I forgot is while he was out there in 2014, he  
8 actually went and spoke with members of the Mesquite  
9 Police Department. He went to the police department to  
10 talk to them and to see what was going on, to try to get  
11 some idea, to try to -- to try to diffuse things. And,  
12 again, whether or not it was because of him, there  
13 wasn't any further confrontations after he got out there  
14 and he -- he then subsequently returned.

15           Regarding the 924(c) charges and the *Johnson*  
16 case that I referenced in my pleading, I did that  
17 because one of the issues, your Honor, that -- as you  
18 know, that you're directed by the statute to look at is  
19 the strength of the Government's case. I would submit  
20 to you that that's not the strength of the Government's  
21 case against somebody else, because there's a number of  
22 counts in the indictment that don't even charge my  
23 client, but it's the strength of the case against my  
24 client. And I would argue -- I would argue that it's  
25 not strong. Those three 924(c) charges have as a

1 predicate offense a violation of 18 U.S.C. 372. That's  
2 the predicate for Count III, which is the 924(c) count  
3 charging my client. And the predicate offense for  
4 Count VI, which is the 924(c) count charging my client,  
5 is a violation of 18 U.S.C. 111(a)(1)(b); and the  
6 predicate for Count XV, which is the 924(c) count  
7 charging my client, is 18 U.S.C. 1951.

8           It's an issue -- if those are not crimes of  
9 violence anymore, then there's no merit to those charges  
10 whatsoever. So you can -- we don't have to -- you can  
11 consider that and I'm asking you to consider that. And  
12 I would point out that there's a -- that Nevada is in  
13 the 9th Circuit and there's a case from Nevada which I  
14 cited in my -- in my bail memo called *Dimaya*,  
15 *D-i-m-a-y-a*, vs. *Lynch*, L-y-n-c-h. It's 803 F.3d 1110,  
16 and that's a 2015 case. And they said in that case that  
17 the -- that the crime of violence language in 18 U.S.C.  
18 16(b) is the identical language that's in the 924(c)  
19 statute as far as the residual clause goes and that they  
20 both suffer from being unconstitutionally vague.

21           So we're not going to obviously litigate that  
22 issue today, but I think the fact that that's in the 9th  
23 Circuit and Nevada's in the 9th Circuit has an impact on  
24 the strength of the Government's case.

25           Also, Mr. Zuckerman mentioned that my client

1 was charged with assaulting the federal officer. My  
2 client wasn't even there when that happened and he  
3 didn't know that it happened and, in fact, didn't know  
4 that it had happened until he got there.

5 So I would suggest that whether or not the  
6 evidence is strong against the Bundys and some of the  
7 other named defendants, the evidence is not that strong  
8 particularly with regard to some of the counts against  
9 my client and that is something that I would ask the  
10 Court to consider.

11 I would also ask the Court to consider that,  
12 as I mentioned before, he served six years in the Marine  
13 Corps. He was honorably discharged. He has no record.  
14 He has no involvement with the criminal justice system  
15 except that he ran for sheriff, unsuccessfully, in --  
16 2015?

17 THE DEFENDANT: '14.

18 MR. SAXE: 2014.

19 He has no issues with drugs or alcohol. He is  
20 devoutly religious. He has ties to the community. And  
21 the only thing that he did in the preceding -- in the  
22 past two years is evidence that he's peaceful and he  
23 wants to try to resolve any of these conflicts in a  
24 peaceful way by going out to Oregon to try to diffuse  
25 the situation there.

1           There are -- as far as a danger to the  
2     community, your Honor, here's his community. And some  
3     of the other part of the community is in the other  
4     courtroom because there's not enough room for them all  
5     here. They know him. These are people that are  
6     law-abiding, that are members of the House of the State  
7     of New Hampshire.

8           I've asked -- they all want to say something,  
9     but I said that's not really feasible here. But there's  
10    a few people who I've -- who have selected themselves,  
11    actually, that would just want to briefly address the  
12    Court, if I could do that at this point.

13           THE COURT: I think that what we need to be  
14    sure is that if you're going to ask individuals to come  
15    forward and make statements, they're subject potentially  
16    to cross-examination if they're giving testimony.

17           MR. SAXE: Whatever you want, your Honor.  
18    I -- I talked to them. I said, usually what happens in  
19    a situation like this is people just stand up from the  
20    back of the courtroom and address the Court. But if you  
21    would prefer to have them testify, that's fine.

22           THE COURT: Well, here's my -- my problem.  
23    I'm looking around this room and I know that there are  
24    folks that are in the other room. And so if we simply  
25    pick and choose who's going to have an opportunity to

1 speak, that doesn't really seem fair to everyone that's  
2 here today that probably everyone has something that's  
3 on their mind that they'd like to say.

4 So if individuals want to come forward and  
5 provide testimony as it relates to this detention  
6 hearing, I am happy to do that. I think it's fair for  
7 the Government to have an opportunity to cross-examine  
8 them if they wish to do so.

9 MR. SAXE: That's fine, your Honor.

10 THE COURT: All right. Very good.

11 MR. SAXE: That's fine. Yeah. Okay.

12 I would ask Warren Groen ...

13 THE CLERK: If you could please remain  
14 standing and raise your right hand.

15 **WARREN GROEN**, having been first duly sworn,  
16 testified as follows:

17 THE CLERK: Thank you. Please be seated and,  
18 for the record, please state your name and spell your  
19 last name.

20 THE WITNESS: My name is Warren Groen, last  
21 name is G, as in George, r-o-e-n.

22 DIRECT EXAMINATION

23 BY MR. SAXE:

24 Q. Okay. Mr. Groen, do you know my client?

25 A. I do.

1 Q. And how do you know him?

2 A. I met him approximately ten years ago  
3 involving community activities. We've done some  
4 volunteer work together and -- and at political  
5 meetings.

6 Q. Okay. And are you involved in politics?

7 A. I am. I'm a state rep. I represent Strafford  
8 District 10 in Rochester.

9 Q. Okay. And how long have you done that?

10 A. In my eighth year.

11 Q. Okay. And do you know my client's wife?

12 A. I do. I serve with her currently in the House  
13 and I did four years ago.

14 Q. Okay. And what's her name?

15 A. Her name is Susan.

16 Q. Okay. So how often do you interact with  
17 Mr. DeLemus?

18 A. Sometimes weekly, sometimes, you know, once or  
19 twice a month, depending on how much activity there is  
20 going on.

21 Q. Okay. Do you think that you've met him and  
22 dealt with him enough to form an opinion about his  
23 personality?

24 A. I have.

25 Q. Okay.



1           A.     It doesn't take long when you meet Jerry to  
2     form an opinion.  He's a Patriot and he holds his views  
3     strongly.  And I hope that's not a problem in this  
4     country.  If it is, there's -- you know, the audience in  
5     this room and the next room's in big trouble.

6           Q.     Okay.  So -- so obviously you've heard from --  
7     you've discussed this with me prior to today, right?

8           A.     Uh-huh.

9           Q.     I talked to you on the phone.

10          A.     Yes.

11          Q.     And you've heard the Government make a  
12     presentation regarding the Government's position here?

13          A.     I have.

14          Q.     The Government is claiming that they believe  
15     that Mr. DeLemus is violent.  Do you think Mr. DeLemus  
16     is violent?

17          A.     Absolutely not.  And I've actually seen  
18     evidence to the contrary.  I think it was about four  
19     years ago when we were campaigning, we were doing a sign  
20     wave in downtown Rochester --

21          Q.     Would you tell the Court what that means?

22          A.     Oh, a sign wave is where we all take our  
23     various signs from the different candidates and we stand  
24     along the street and we wave our signs at the cars that  
25     are going by.

1 Q. Okay. So they were, I assume, Republican  
2 candidates?

3 A. They were.

4 Q. Okay. So what happened?

5 A. A group of Occupy New Hampshire people came  
6 and got all in the middle between us and started  
7 jostling and basically trying to make trouble. And, as  
8 a matter of fact, they were successful. They did make  
9 trouble. And there was a couple of folks on our side  
10 who were ready to engage in fisticuffs, I guess we could  
11 say, and Jerry immediately stood up and got in the  
12 middle of it and stopped it all.

13 And so I would say that he's not a  
14 peacekeeper, he's a peacemaker --

15 Q. Okay.

16 A. -- because he actually made peace when it no  
17 longer existed.

18 Q. Okay.

19 A. And I observed that myself.

20 Q. Do you think that -- do you think that if he  
21 was released that he would run away?

22 A. No. He's a man of his word.

23 Q. Okay. Do you think that if this Court imposed  
24 conditions for his release that he would abide by those  
25 conditions?

1           A.     He would.

2           Q.     And why do you think that?

3           A.     My ten years of experience with him and  
4 numbers of volunteer events. We've done construction  
5 jobs that we were, you know, both volunteering on  
6 together, volunteer events where we did political  
7 events, and he's always been a man of his word.

8           MR. SAXE: Okay. Thank you. I don't have any  
9 further questions, your Honor.

10          THE COURT: Any questions?

11          MR. ZUCKERMAN: Just briefly, your Honor.

12          THE COURT: Certainly.

13                               CROSS-EXAMINATION

14          BY MR. ZUCKERMAN:

15           Q.     Good afternoon, Mr. Groen. My name is  
16 Mark Zuckerman. I'm the prosecutor on this case, at  
17 least in this district. I just have one or two  
18 questions for you.

19                 You say Mr. DeLemus is man of his word; is  
20 that correct?

21           A.     Indeed.

22           Q.     So he says what he means and he means what he  
23 says?

24           A.     Uh-huh.

25           MR. ZUCKERMAN: Okay. Thank you.

1 THE COURT: Thank you very much, sir. I  
2 appreciate your time.

3 (Witness excused.)

4 MR. SAXE: I would call John Burt.

5 THE CLERK: Please remain standing and raise  
6 your right hand.

7 **JOHN BURT**, having been first duly sworn,  
8 testified as follows:

9 THE CLERK: Please be seated and, for the  
10 record, please state your name and spell your last name.

11 THE WITNESS: I am Representative John Burt,  
12 and it's B-u-r-t.

13 DIRECT EXAMINATION

14 BY MR. SAXE:

15 Q. Okay. And, Mr. Burt, do you know  
16 Jerry DeLemus?

17 A. I do.

18 Q. And how do you know him?

19 A. I was elected the same time his wife  
20 Honorable Susan DeLemus was and I met him through her.

21 Q. Okay. And how long ago was that?

22 A. 2010.

23 Q. All right. And have you had -- how much  
24 contact have you had with Jerry?

25 A. Over the years, it was off and on. You know,

1 I've always followed Jerry on Facebook and then also  
2 through phone calls and et cetera. At the beginning, we  
3 both did debates, which -- you know, had candidates  
4 come, so I met, you know, Jerry many times through  
5 there.

6 Our conversations, you know -- the Honorable  
7 Susan DeLemus, you know, conversations with her over the  
8 last, you know, it'd be six years now.

9 Q. Okay. And have you seen Jerry interact with  
10 other people in the community?

11 A. Many times.

12 Q. Have you ever known him to behave in a violent  
13 manner?

14 A. Zero.

15 Q. Okay. What would you say -- how would you  
16 describe his involvement with his community?

17 A. I think he's very well respected in his  
18 community. I think people respect him. They understand  
19 who Jerry DeLemus is, that he's a man of his word and  
20 law-abiding.

21 Q. Okay. And do you respect him?

22 A. Oh, absolutely, 100 percent.

23 Q. And why do you respect him?

24 A. Well, I've got a small statement I was going  
25 to read, but why I respect him is, you know, because of

1 his strong family values and his belief in God.

2 MR. SAXE: Okay. And, your Honor, would it be  
3 okay if he just read the statement --

4 THE WITNESS: It's very short.

5 THE COURT: I don't have an objection to that.  
6 Go ahead.

7 MR. SAXE: Okay. Go ahead.

8 THE WITNESS: Thank you, sir, and thank you,  
9 Your Honor.

10 I wrote this myself last night. My wife did  
11 help me correct some spelling, because I'm a terrible  
12 speller. So other than that, this is my words.

13 Thank you, Your Honor. I am Representative  
14 John Burt of Goffstown, New Hampshire. I represent  
15 Hillsborough 39; Goffstown, Weare, and Deering. I was  
16 elected in 2010 along with the Honorable Susan DeLemus  
17 of Rochester, New Hampshire. I met Jerry shortly after  
18 that.

19 Mr. DeLemus is one of the most law-abiding  
20 Americans I have ever met. He served his country with  
21 honors in the military to protect my grandchildren and  
22 all Americans' freedoms. I thank him for that. Sadly,  
23 the Honorable Susan DeLemus's mother has Alzheimer's and  
24 she now lives at their home. Mr. DeLemus helps her  
25 care, and only with his help can the Honorable Susan

1 DeLemus continue to serve as a volunteer legislator.

2 She serves her position with honor, your Honor.

3 The many times I have visited with the  
4 Honorable Susan DeLemus and her husband, I saw a true --  
5 two true Americans. I have always respected Mr. DeLemus  
6 for his strong family values and his belief in God.

7 When Mr. DeLemus and I talked about any issue  
8 in America that we thought were not right, he always  
9 talked about the peaceful and law-abiding way to correct  
10 it. Mr. DeLemus loves America, loves New Hampshire,  
11 loves his wife. I have zero doubt about that and I  
12 would put my reputation on the line.

13 Your Honor, I ask you to look at how many  
14 good Americans are sitting here today that support  
15 Mr. DeLemus. I have never been in a federal court in my  
16 55 years of life other than last Thursday when I sat  
17 before you for the same reasons. To show you that  
18 Mr. DeLemus is a law-abiding true American, being here  
19 with all these law-abiding Americans here today, your  
20 Honor, in support of Mr. DeLemus, makes me proud to know  
21 Mr. DeLemus. Your Honor, I just cannot tell you enough  
22 what Mr. DeLemus has done for this great nation of ours  
23 and the respect that he has in our communities and the  
24 respect that I have for Mr. DeLemus.

25 Thank you for allowing me to speak about this

1 great American, Mr. DeLemus.

2 THE COURT: Proceed.

3 THE WITNESS: Thank you.

4 BY MR. SAXE:

5 Q. So here's the question. If the Court releases  
6 him and imposes conditions, do you -- in your opinion,  
7 based on your knowledge of him, do you think that he  
8 would obey those conditions?

9 A. He definitely would obey those conditions.  
10 And, you know, I would let him move right into my house.

11 Q. Okay. And do you think he would run away?

12 A. Absolutely not. He's a man of his word.

13 MR. SAXE: Okay. Thank you very much. No  
14 further questions.

15 THE WITNESS: Thank you, sir.

16 MR. ZUCKERMAN: I have no questions, your  
17 Honor. Thank you.

18 THE COURT: Thank you, Mr. Burt.

19 THE WITNESS: Thank you, your Honor.

20 (Witness excused.)

21 MR. SAXE: I have two more witnesses, your  
22 Honor, both brief.

23 THE COURT: Okay.

24 MR. SAXE: The first one is David Bates.

25 THE CLERK: Please remain standing and raise



1 your right hand.

2 **DAVID BATES**, having been first duly sworn,  
3 testified as follows:

4 THE CLERK: Please be seated and, for the  
5 record, please state your name and spell your last name.

6 THE WITNESS: My name's David Bates, last name  
7 is spelled B-a-t-e-s.

8 DIRECT EXAMINATION

9 BY MR. SAXE:

10 Q. Mr. Bates, do you know Jerry?

11 A. Yes, I do.

12 Q. How do you know Jerry?

13 A. I've been a state representative since 2008  
14 and came to know Jerry through serving in the  
15 Legislature with his wife Sue.

16 Q. And how -- and what district do you represent?

17 A. I represent Rockingham District 7, which is  
18 the town of Windham.

19 Q. Okay. And in -- in that period of time that  
20 you've known him, how frequently do you come into  
21 contact with him?

22 A. It's hard to quantify that. I've had numerous  
23 occasions where I've been in contact with Jerry over the  
24 years, primarily at political-type events, rallies at  
25 the Statehouse, and things of that nature.

1 Q. Okay. And have you seen him interact with  
2 other people in the community?

3 A. Absolutely. Many times.

4 Q. And -- and have you seen him interact with  
5 community enough to be able to form an opinion about him  
6 as a personality?

7 A. Yes, I have.

8 Q. Okay. What's your opinion?

9 A. I believe Jerry is a man of integrity and  
10 honor and someone who I would have no hesitation in  
11 vouching for.

12 Q. Okay. Do you -- obviously you understand that  
13 the issue which the Court has to address here is whether  
14 he is so violent that he should not be released pending  
15 the resolution of this case. Do you think he's a  
16 violent person?

17 A. No, I do not believe he's a violent man at  
18 all.

19 Q. Okay. And why do you say that?

20 A. One of the ways in which I've come to know  
21 Jerry and especially his wife is through weekly meetings  
22 in the Statehouse prior to House sessions. We would  
23 regularly gather before House sessions for a prayer  
24 meeting, just to pray for things going on in the  
25 Legislature and the various legislators themselves.

1 I've come to know Sue and Jerry both as people of deep  
2 faith and the idea of him being a violent person is  
3 wholly inconsistent of what I know of him as a Christian  
4 that is very devout.

5 Q. All right. Do you think if the Court was to  
6 impose conditions that he had to abide by that he would  
7 obey those conditions?

8 A. Absolutely. You've heard previously, your  
9 Honor, that Jerry has honorably served this country as a  
10 Marine. He knows what it means to receive and to follow  
11 orders and there's no question in my mind that he will  
12 abide by whatever conditions that this Court makes upon  
13 his release.

14 MR. SAXE: Thank you, Your Honor. I have no  
15 further questions.

16 MR. ZUCKERMAN: I have no questions, Judge.  
17 Thank you.

18 THE COURT: Very good. Thank you.

19 (Witness excused.)

20 MR. SAXE: Your Honor, I have one more  
21 witness, Stephanie Monza.

22 THE CLERK: Would you please remain standing  
23 and raise your right hand.

24 **STEPHANIE MONZA**, having been first duly sworn,  
25 testified as follows:

1           THE CLERK: Thank you. Please be seated and,  
2     for the record, please state your name and spell your  
3     last name.

4           THE WITNESS: Stephanie Monza, M-o-n-z-a.

5                           DIRECT EXAMINATION

6     BY MR. SAXE:

7           Q. Ms. or Mrs.?

8           A. Mrs.

9           Q. Mrs. Monza, do you know Jerry?

10          A. I know Jerry.

11          Q. How do you know Jerry?

12          A. Jerry has been my neighbor and friend for 13  
13     years.

14          Q. Okay. When you say neighbor, you live right  
15     next door or a couple houses away?

16          A. We live next door. And then since his  
17     mother-in-law's had Alzheimer's, they're in the back.  
18     We live in condos, so we're close by.

19          Q. Okay. And I know I told you you probably  
20     wouldn't testify. I apologize for that.

21          A. That's okay.

22                       THE COURT: Blame it on me.

23          Q. Most of the people that support Jerry are  
24     Republicans.

25          A. Oh, boy.

1 Q. Are you a Republican?

2 A. I am a Bernie supporter.

3 Q. As in Bernie Sanders?

4 A. As in feel the Bern, Bernie Sanders, yes.

5 Q. Don't hold that against her.

6 So all right. So -- but you're his next door  
7 neighbor, right?

8 A. Yes.

9 Q. So -- and you see him, I assume, on a regular  
10 basis?

11 A. All the time.

12 Q. Could you just describe to the Court the  
13 nature of your interactions with him over the years?

14 A. Jerry -- all I can think of is when you see  
15 these bumper stickers that say random acts of kindness,  
16 that's Jerry. He does it every day. There have been  
17 times where I -- my husband had to leave to go to  
18 Florida, I was alone like most of the winter a few  
19 winters back. Jerry and Sue are just -- they're not  
20 even neighbors; they're family. I mean, whatever I  
21 need, 2:00 in the morning, I could call Jerry and he'd  
22 be there in a heartbeat.

23 But I have kind of a knee-jerk reaction to  
24 things where if I get upset, I'm like, boom. Jerry  
25 would be the first one to say, hey, Steph, sit back,

1 calm down, think about it. And that's how he is.

2 I mean, I hear people say violent. Jerry is  
3 anything but violent. I mean, I've never, ever seen him  
4 raise his voice and that's the honest to God truth. In  
5 13 years, I have never seen that man upset. Ever.

6 Q. Okay. And do you think that if this Court  
7 were to impose conditions that he would abide by those  
8 conditions?

9 A. Of course he would.

10 Q. Do you --

11 A. Of course he would.

12 Q. Do you think that he would show up in Nevada?

13 A. Yes. He would do whatever was ordered of him  
14 to do. But he's -- he's one of the kindest -- and Sue  
15 together. They adore each other.

16 And as far as Jerry, I mean -- there are  
17 instances where I could list for a very long time, I  
18 could be here for half an hour or more. But one of the  
19 things that come to mind, and it came to my mind earlier  
20 today, was that my mom was in Hospice care a few years  
21 back. And I called home and I couldn't reach my  
22 husband. So I called Jerry and Sue and said, could you  
23 please go and see if he's there, I really need him right  
24 now at the hospital. Well, they couldn't find him, but  
25 15 minutes later, Sue and Jerry were right there in that

1 hospital room with me, you know, asking what I needed.

2 My dog was -- Jerry's a real animal person,  
3 like I am, and my dog was dying and I couldn't get him  
4 up off the floor. He was a pretty big dog. I called  
5 and Jerry came over, tears in his eyes, put the dog in  
6 the car for me. And when he passed away, the first  
7 people that were over there were Jerry and Sue with a  
8 bouquet of roses and sat with me until I, you know,  
9 calmed down. That's how they are.

10 I mean, I could go on, if you would like.

11 MR. SAXE: I don't have any other questions.  
12 Thank you very much.

13 THE WITNESS: Okay. Thank you.

14 MR. ZUCKERMAN: I have no questions, Judge.

15 THE COURT: Thank you very much.

16 (Witness excused.)

17 MR. SAXE: That's all I have, your Honor,  
18 other than to say it is not insignificant that this case  
19 is two years old and it is not insignificant that the  
20 Government didn't feel that he was so dangerous that  
21 something had to be done during that two-year period to  
22 prevent Mr. DeLemus from being out in the public because  
23 he was so dangerous. And the reason is because he's not  
24 dangerous. And the reason is because if you order him  
25 to go out to Las Vegas or to Nevada, he's going to go.

1 And he's not going to be violent. He's going to do what  
2 he's done his entire life; he's going to -- if you order  
3 him to abide by conditions, he's going to abide by them.  
4 And he'll go out there and he'll do whatever he has to  
5 do to face these charges.

6 I don't think he's a danger to the community  
7 and I --- or a flight risk and I think that you can  
8 definitely devise conditions which would reasonably  
9 assure the safety of the community and his appearance  
10 because I don't really think it's necessary to really  
11 have any conditions because he's just not a danger or a  
12 flight risk. And I would ask that he be released.

13 THE COURT: Thank you. Does the Government  
14 have anything further?

15 MR. ZUCKERMAN: No, no further evidence, your  
16 Honor. I'd rest on our argument.

17 Again, the defendant's conduct back in 2014  
18 does speak for itself. And as several witnesses said,  
19 Mr. DeLemus is a man of his word; he says what he means,  
20 he means what he says. And we know what he said about  
21 the use of force that he was prepared to use against the  
22 U.S. Government.

23 THE COURT: Thank you. So the Court has  
24 before it the Pretrial Services Report and I've reviewed  
25 that and I've also reviewed the submissions that were



1 provided to me by both the Government and by  
2 Mr. DeLemus's counsel.

3           The purpose of today's hearing is not to  
4 decide Mr. DeLemus's guilt or innocence. It's really to  
5 look at a very narrow issue and that is whether or not  
6 Mr. DeLemus should be detained pending trial or whether  
7 there are some conditions or a combination of conditions  
8 that can be set that will reasonably assure his  
9 appearance and that will reasonably assure the safety of  
10 the community.

11           That is not an insignificant undertaking.  
12 There is a significant amount of information that's been  
13 provided to the Court, both in this hearing and in the  
14 materials that have been submitted, and so I am going to  
15 take this matter under advisement. I will issue my  
16 order after I've had an opportunity to further consider  
17 the matter.

18           And, in the interim, Mr. DeLemus, you'll  
19 continue to be detained until such time as I issue my  
20 order. So I will remand you to the custody of the  
21 United States Marshal and I will take this under  
22 advisement.

23           I thank everyone very much for their time and  
24 for coming here today.

25           (Proceedings concluded at 3:23 p.m.)

C E R T I F I C A T E

I, Liza W. Dubois, do hereby certify that  
the foregoing transcript is a true and accurate  
transcription of the within proceedings, to the best of  
my knowledge, skill, ability and belief.

Submitted: 3/15/16      /s/ Liza W. Dubois  
LIZA W. DUBOIS, LCR, CRR